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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30-400
Regulation title	Disposal of Limited Access Control
Action title	Repeal of 24 VAC 30-400 and Replacement with 24 VAC 30-401
Final agency action date	November 17, 2005
Document preparation date	February 15, 2006

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 21 (02) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulation establishes the rules pertaining to payment of damages to property owners abutting a new or existing highway when easements are extinguished. The Office of the Attorney General has found that this regulation is exempt from the APA under Section 2.2-4002 B4.

At the direction of the Registrar of Regulations, the regulation has been repealed as 24 VAC 30-400 and reenacted as 24 VAC 30-401 due to the scope of changes involved, which involve the following topics:

- make requestors of changes in limited access subject to additional procedural and monetary requirements regarding such changes;
- establish clear lines of authority for various levels of decision-making (e.g. assign responsibilities to VDOT's Chief Engineer for recommending changes be considered by the CTB, evaluating requests for safety impacts, etc.)
- provide that public input be formally collected prior to CTB action on requested changes; and
- permit VDOT greater flexibility to issue instructions on implementation of the regulation.

Specific changes made in 24 VAC 30-401 from the repealed version are as follows:

Section	Change	Substantive?	Rationale
Title of Chapter 401	<ul style="list-style-type: none"> • Substitute “Change “ for “Disposal” 	Yes	<ul style="list-style-type: none"> • Indicates broadened scope of regulation to cover actions other than disposal of limited access control
24 VAC 30-401-10	<ul style="list-style-type: none"> • Retitle catchline as “Authority” • Add letter designations “A” and “B” • Add statutory authority (§ 33.1-58) and provide examples of changes in limited access control • Add provision in (B) concerning additional instructions to implement chapter 	Yes Yes Yes Yes	<ul style="list-style-type: none"> • Provides more description on section content • To accommodate more text • Provides more information on regulated activities • Provides greater flexibility to issue instructions without revising regulations
24 VAC 30-401-20	<ul style="list-style-type: none"> • Retitle catchline as “Policy and Conditions” • Add letter designations • Add references to other VDOT regulations in (A) • Add provision in (B) concerning Chief Engineer’s determination for consideration of limited access change • Add provisions in (C) concerning minimum conditions to be met for proposed changes in limited access 	Yes Yes Yes Yes Yes	<ul style="list-style-type: none"> • Provides more description on section content • To accommodate more text • Provides more information on regulated activities • Provides additional condition to be satisfied before considering request • Provides expanded procedural requirements and monetary commitments for requestors to satisfy to ensure safety, public support and

Section	Change	Substantive?	Rationale
	<ul style="list-style-type: none"> • Add provision in (D) authorizing Chief Engineer to deny requests that do not meet conditions in (C) • Add provision in (E) concerning responsibilities of requestor and VDOT after CTB approval 	<p>Yes</p> <p>Yes</p>	<p>environmental concerns are addressed</p> <ul style="list-style-type: none"> • Allows engineering professional to exercise authority on behalf of CTB without having all requests heard by the CTB • Specifies what is required of the requestor and VDOT after CTB approval
24 VAC 30-401-30	<ul style="list-style-type: none"> • Add provisions in (A) concerning appraisal process approved by Commissioner or a designee and determination of compensation made by Commissioner or a designee • Add term “operational” to first sentence of (B) • Substitute “Commissioner or his designee” for “State Director of Right of Way and Utilities” in second sentence, add stipulation that approval occurs before CTB approval, and add sentence concerning role of Chief Engineer in approving safety/operational improvements. 	<p>Yes</p> <p>No</p> <p>Yes</p>	<ul style="list-style-type: none"> • To provide more flexibility • To provide more specificity • To identify authorities’ roles in process
24 VAC 30-401-40	<ul style="list-style-type: none"> • Revise section to specify that funds used for Interstate projects require Federal Highway Administration approval, and that the approval occurs before CTB consideration 	Yes	<ul style="list-style-type: none"> • To provide more specificity

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On November 17, 2005, the Commonwealth Transportation Board approved the revised APA-exempt regulation, which has been filed as 24 VAC 30-401 under the new title "Change of Limited Access Control."

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This regulation has no impact on family and family stability.